

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-7547

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

MARTIN SANCHEZ,

Defendant - Appellant.

Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Jr., District Judge. (CR-97-281, CA-99-853-3-17)

Submitted: March 23, 2000

Decided: March 30, 2000

Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Martin Sanchez, Appellant Pro Se. Nancy Chastain Wicker, OFFICE OF THE UNITED STATES ATTORNEY, Columbia, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Martin Sanchez seeks to appeal the district court's orders denying his motions for reconsideration of the denial of his 28 U.S.C.A. § 2255 (West Supp. 1999) motion and for a certificate of appealability. We dismiss the appeal from the denial of the motion for reconsideration for lack of jurisdiction because the appeal was untimely filed. The district court entered its order denying the motion for reconsideration on August 4, 1999. Sanchez did not specifically mention the August 4 order in his notice of appeal but stated in his informal brief filed in this court on January 3, 2000, and mailed by Sanchez on December 28, 1999, that he also seeks to appeal the August 4 order. Although an informal brief may be construed as a notice of appeal when it satisfies the requirements of Fed. R. App. P. 3, see Smith v. Barry, 502 U.S. 244, 247-49 (1992), Sanchez did not file his informal brief within the sixty-day appeal period provided by Fed. R. App. P. 4(a)(1), nor did the district court extend the appeal period under Fed. R. App. P. 4(a)(5) or reopen the appeal period under Fed. R. App. P. 4(a)(6). We therefore deny a certificate of appealability and dismiss this portion of the appeal for lack of jurisdiction.

We find that the district court's denial of Sanchez's application for a certificate of appealability was proper because he failed to make a "substantial showing of the denial of a constitutional right." 28 U.S.C.A. § 2253(c)(3) (West 1994 & Supp. 1999).

Accordingly, we deny Sanchez's motions for a certificate of appealability and dismiss this portion of the appeal on the reasoning of the district court. See United States v. Sanchez, Nos. CR-97-281; CA-99-853-3-17 (D.S.C. Sept. 24, 1999).

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the Court and argument would not aid the decisional process.

DISMISSED